

Chapter 5.42

SECONDHAND JEWELRY AND WATCH DEALERS

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5.42.010 Definitions .

The following definitions shall apply in the interpretation and enforcement of this chapter:

Person shall mean an individual, firm, partnership, association, corporation, or any principal, employee, agent, or servant thereof who in the course of business buys secondhand jewelry or secondhand watches.

Secondhand dealer or **dealer** shall mean any person, firm, partnership, corporation, and any principal, employee, agent, or servant thereof regularly engaged in or conducting business for the purchase of secondhand jewelry or secondhand watches.

Established dealer shall mean any dealer conducting business in a fixed location for a period exceeding sixty days per calendar year.

Itinerant dealer shall mean any person engaged in conducting any temporary or transient business from a shop, room, hotel, motel, or other premises rented for any duration less than sixty consecutive days per calendar year or used on a temporary basis.

Engaged in or conducting business shall mean the purchase, barter, or exchange of secondhand jewelry or secondhand watches, including the advertising therefor, and including such business conducted by an established dealer or by an itinerant dealer.

Secondhand jewelry shall mean any item or ornament worn on or about the person, previously owned or used and not sold as new, which is made in whole or part of precious metal; or any other article

previously owned or used and not sold as new, which is made of precious metal, excluding United States coins of legal tender, and except any such property received or purchased by pawnbrokers licensed pursuant to Chapter 5.34.

Secondhand watch shall mean a watch which as a whole, or the case thereof, or the movement thereof, has been sold to a customer, or any watch whose case or movement, serial numbers or other distinguishing marks have been erased, defaced, removed, altered, or covered.

Precious metal shall mean gold, silver, platinum, copper, brass, and pewter.

Chief of Police shall mean the Chief of the Lincoln Police Department or a designee of the chief. (Ord. 15475 §1; March 5, 1990: P.C. §5.25.010: Ord. 14572 §1; December 22, 1986: prior Ord. 13106 §2; March 9, 1981).

5.42.020 Occupation Tax.

There is hereby levied upon the business of every person engaged in the business of operating or conducting the business of secondhand dealing an occupation tax of twenty-five dollars per year. (Ord. 15475 §2; March 5, 1990: P.C. §4.08.150: Ord. 3489 §26-116; July 6, 1936).

5.42.030 Permit Required

It shall be unlawful for any person to purchase secondhand jewelry or secondhand watches in the regular course of business without first obtaining a permit therefor from the City Clerk; such permit shall be necessary in addition to any other required permit or license. (Ord. 15475 §3; March 5, 1990: P.C. §5.25.020: Ord. 14572 §2; December 22, 1986: prior Ord. 13106 §3; March 9, 1981).

5.42.040 Application for Permit.

Applicants for a permit under this chapter shall file a written, sworn application on a form provided by the City Clerk, signed by the applicant if an individual, by all partners if a partnership, and by the president if a corporation, with the City Clerk showing:

(a) The name or names of the principals, agents, and employees of the applicant's business during the time that it is proposed to be carried on in the City of Lincoln; the local address of such principals, agents, and employees while engaged in such business; the permanent address of such principals, agents, and employees; the capacity in which they will act; and if a corporation, under the laws of which state it is incorporated;

(b) The fingerprints of the principals, agents, or employees of the applicant's business;

(c) The place or places, other than the permanent place of business of the applicant, where the applicant within six months preceding the date of said application conducted an itinerant business, stating the nature thereof and giving the post office and street address of any buildings or office in which such business was conducted;

(d) The place or places in the City of Lincoln where it is proposed to carry on the applicant's business and the length of time during which it is proposed that such business shall be conducted;

(e) A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers;

(f) Whether the applicant, principals, agents, and employees of the applicant have been convicted of any crime involving moral turpitude, the nature of such offense, and the punishment assessed therefor; and

(g) Credentials from the person, firm, or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative. (Ord. 15475 §4; March 5, 1990: P.C. §5.25.030: Ord. 24572 §3; December 22, 1986: prior Ord. 13106 §4; March 9, 1981).

5.42.050 Bond Required; Amount.

A permit shall not be issued to an applicant until said applicant has posted with the City Clerk a surety bond in favor of the city in the amount of \$5,000.00, which bond shall not be accepted unless it be with a corporate surety licensed to do business in Nebraska and unless it be conditioned that the applicant shall comply fully with all applicable provisions of state and local law, and the rules and regulations concerning the activity for which the applicant is to be licensed. (Ord. 15475 §5; March 5, 1990: P.C. §5.25.040: Ord. 14572 §4; December 22, 1986: prior Ord. 13106 §5; March 9, 1981).

5.42.060 Issuance of Permit.

Upon receipt of an application for a permit under this chapter, the City Clerk shall have the Chief of Police cause an investigation of the applicant's business responsibility or moral character to be made as the chief deems necessary for the protection of the public good. The City Clerk may, after such investigation and finding by the Chief of Police that the health, safety, or welfare of the public so demand, refuse to issue a permit to an applicant for reasons including, but not limited to, the following:

- (a) Conviction of any felony;
- (b) Conviction of any crime involving moral turpitude;
- (c) Fraud, misrepresentation, or false statement of material or relevant facts contained in the application; or
- (d) That the applicant has engaged in a fraudulent transaction or enterprise.

In the event the City Clerk denies a permit, the City Clerk shall notify the applicant in writing within thirty days of the filing of the application.

If, as a result of such investigation, the statements contained in the application are found to be true and correct, and the applicant has not been convicted of any felony or any crime involving moral turpitude, the Chief of Police shall approve the application in writing and shall return the application to the City Clerk for issuance of the permit.

In addition, before issuing the permit, the City Clerk shall:

- (1) Obtain from the Bureau of Fire Prevention written approval of the premises upon which the business is to be conducted;
- (2) Obtain from the Department of Building and Safety written approval that the premises upon which the business is to be located meets the requirements of the zoning code.

The permit issued shall be personal privilege and shall not be transferable.

A permit issued to an established dealer under this chapter shall be for one year, commencing June 1 and ending May 31 and shall be renewable annually without further application. A permit issued to an itinerant dealer under this chapter shall specify the date or dates upon which business may be conducted, and shall be issued only for the period specified in the application. (Ord. 15475 §6; March 5, 1990: P.C. §5.25.050: Ord. 14572 §5; December 22, 1986: prior Ord. 13106 §6; March 9, 1981).

5.42.070 Record of Transactions .

Every dealer shall keep a form provided by the Chief of Police in which shall be legibly typed or machine printed at the time of each transaction in the course of the dealer's business in the City of Lincoln, an accurate account of each transaction involving the purchase of any secondhand jewelry. The record shall contain an accurate description of the secondhand jewelry, the name, address, and description of the person selling the same, the permit number of the dealer, and the description of the form of identification used to verify the seller's identity.

Such book shall be open during all business hours to inspection of any police officer of the City of Lincoln. (Ord. 17890 §3; July 30, 2001: prior Ord. 15475 §7; March 5, 1990: P.C. § 5.25.070: Ord. 13106 §8; March 9, 1981).

5.42.080 Reports to Police.

Every dealer shall deliver daily to the Chief of Police a clear, legible copy of the form for each transaction required in Section 5.42.070 above. Delivery may be made by mailing said copies by regular first class U.S. mail, postage prepaid, to the Chief of Police. (Ord. 17890 §4; July 30, 2001: prior Ord. 15475 §8; March 5, 1990: P.C. §5.25.080: Ord. 13106 §9; March 9, 1981).

5.42.090 Inspection of Premises.

Every dealer shall admit upon the premises at any time during regular business hours, any Lincoln police officer to examine the dealer's books or merchandise covered by this chapter. (Ord. 15475 §9; March 5, 1990: P.C. §5.25.090: Ord. 13106 §10; March 9, 1981).

5.42.100 Retention of Items Purchased

No secondhand jewelry or secondhand watch purchased by a dealer in the regular course of business shall be destroyed, damaged, or in any way defaced for a period of fourteen days after purchase. Said dealer must be able to produce the secondhand jewelry item or secondhand watch purchased, or initiate its recovery at anytime during that fourteen-day period, at the request of the Chief of Police. (Ord. 17890 §5; July 30, 2001: prior Ord. 15475 §10; March 5, 1990: P.C. §5.25.100: Ord. 13106 §11; March 9, 1981).

5.42.110 Restrictions on Property Accepted; Customer Fingerprint Required.

(a) All persons who shall be engaged in the business of secondhand jewelry or secondhand watch purchasing shall, in addition to the requirements of this chapter, maintain and keep a single, legible fingerprint of each person selling secondhand jewelry or a secondhand watch. The fingerprint shall be taken from the right index finger, or if the right index finger is missing, from the left index finger. Each dealer shall display a notice to customers, in a prominent location, stating that such dealer is required by municipal ordinance to fingerprint every person selling secondhand jewelry or a secondhand watch.

(b) No dealer shall purchase any property:

(1) From any person who is under eighteen years of age or any person who appears to be under the influence of alcohol, narcotic drugs, stimulant, or depressant, or who appears to be mentally incompetent; or

(2) On which the serial numbers or other identifying insignia have been destroyed, removed, altered, covered, or defaced. (Ord. 17890 §6; July 30, 2001: prior Ord. 15475 §11; March 5, 1990: P.C. §5.25.110: Ord. 13106 §12; March 9, 1981).

5.42.120 Identification Required

It shall be unlawful for any dealer to purchase any secondhand jewelry or secondhand watches without first obtaining at least one form of identification from the seller, including but not limited to, driver's license or social security card. (Ord. 15475 §12; March 5, 1990: P.C. §5.25.120: Ord. 13106 §13; March 9, 1981).

5.42.130 Revocation of Permit.

Any permit issued under this chapter may be revoked by the City Clerk if, after notice and hearing, the City Clerk finds that such person has knowingly violated any portion of this chapter or has been convicted of any other felony or any crime involving moral turpitude, or that the permittee has engaged in a fraudulent transaction or enterprise. A seven-day written notice of the hearing stating the reasons for the proposed revocation shall be mailed by certified mail to the permit holder at the business address appearing on the permit application.

Said notice shall set forth the grounds of the proposed revocation and the time and place of the hearing. At the hearing the permittee may be represented by counsel, may cross-examine witnesses, and present evidence in such permittee's behalf. (Ord. 15475 §13; March 5, 1990: P.C. §5.25.130: Ord. 14572 §7; December 22, 1986: prior Ord. 13106 §14; March 9, 1981).

5.42.140 Secondhand Watch; Tag Required.

Any dealer who sells, exchanges, offers to sell or exchange, exposes for sale or exchange, or possesses with intent to sell or exchange a secondhand watch shall affix and keep affixed to the same a tag with the words "secondhand" legibly written or printed thereon in the English language. (Ord. 15475 §14; March 5, 1990: P.C. §5.24.020: Ord. 3974 §2; August 28, 1944).

5.42.150 Advertising Display; Designation as Secondhand.

Any dealer advertising or displaying in any manner second watches for sale shall state clearly in such advertising or display that the watches so advertised or displayed are secondhand watches. (Ord. 15475 §15; March 5, 1990: P.C. §5.24.040: Ord. 3974 §4; August 28, 1944).

5.42.160 Penalty for Violations.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not to exceed \$500.00. (Ord. 15475 §16; March 5, 1990: P.C. §5.24.050: Ord. 3974 §5; August 28, 1944).